

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**SHELLY LEE HUMPHREYS BAXTER
a.k.a. SHELLY LEE BAXTER**

P.O. Box 5036
Hemet, CA 92544

Registered Nurse License No. 482328

Respondent.

Case No. 2007-217

OAH No. L-2007070278

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 19, 2007.

It is so ORDERED November 19, 2007.

LaTranene W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES LEDAKIS
Supervising Deputy Attorney General
3 SUSAN FITZGERALD, State Bar No. 112278
Deputy Attorney General
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9 Attorneys for Complainant

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

13 SHELLY LEE HUMPHREYS BAXTER
14 a.k.a. SHELLY LEE BAXTER
P.O. Box 5036
15 Hemet, CA 92544

16 Registered Nurse License No. 482328

17 Respondent.

Case No. 2007-217

OAH No. L-2007070278

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the
23 Board of Registered Nursing. She brought this action solely in her official capacity and is
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
25 by Susan Fitzgerald, Deputy Attorney General.

26 2. Respondent Shelly Lee Humphreys Baxter is represented in this proceeding by
27 attorney Ron G. Skipper, whose address is 323 W Court St, San Bernardino, CA 92401.

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1 3. On or about August 31, 1992, the Board of Registered Nursing issued Registered
2 Nurse License No. 482328 to Shelly Lee Humphreys Baxter, a.k.a. Shelly Lee Baxter
3 (Respondent). The license was in full force and effect at all times relevant to the charges brought
4 in Accusation No. 2007-217 and will expire on February 29, 2008, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 2007-217 was filed before the Board of Registered Nursing
7 (Board), Department of Consumer Affairs, and is currently pending against Respondent. A true
8 and correct copy of the Accusation and all other statutorily required documents were properly
9 served on Respondent on February 26, 2007. Respondent timely filed her Notice of Defense
10 contesting the Accusation. A true and correct copy of Accusation No. 2007-217 is attached as
11 exhibit A and incorporated herein by reference as if fully set forth herein.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read, discussed with counsel, and fully understands the
14 charges and allegations in Accusation No. 2007-217. Respondent has also carefully read,
15 discussed with counsel, and fully understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

17 6. Respondent is fully aware of her legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
19 her own expense; the right to confront and cross-examine the witnesses against her; the right to
20 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
21 compel the attendance of witnesses and the production of documents; the right to reconsideration
22 and court review of an adverse decision; and all other rights accorded by the California
23 Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each
25 and every right set forth above.

26 **CULPABILITY**

27 8. Respondent admits the truth of each charge and allegation in Accusation No.
28 2007-217.

1 9. Respondent agrees that her Registered Nurse License is subject to discipline and
2 she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
3 Order below.

4 **CIRCUMSTANCES IN MITIGATION**

5 10. Respondent has never been the subject of any disciplinary action. She is
6 admitting responsibility at an early stage in the proceedings.

7 **RESERVATION**

8 11. The admissions made by Respondent herein are only for the purposes of this
9 proceeding, or any other proceedings in which the Board of Registered Nursing or other
10 professional licensing agency is involved, and shall not be admissible in any other criminal or
11 civil proceeding.

12 **CONTINGENCY**

13 12. This stipulation shall be subject to approval by the Board of Registered Nursing.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
15 Registered Nursing may communicate directly with the Board regarding this stipulation and
16 settlement, without notice to or participation by Respondent or her counsel. By signing the
17 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 **OTHER MATTERS**

24 13. Costs of investigation and enforcement of this action total to \$5,185.25 to August
25 30, 2007.

26 14. The parties understand and agree that facsimile copies of this Stipulated
27 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
28 force and effect as the originals.

1 **DISCIPLINARY ORDER**

2 In consideration of the foregoing admissions and stipulations, the parties agree that the
3 Board may, without further notice or opportunity to be heard by respondent, issue and enter the
4 following Disciplinary Order:

5 IT IS HEREBY ORDERED that Registered Nurse License No. 482328 issued to
6 Respondent Shelly Lee Humphreys Baxter is revoked. However, the revocation is stayed and
7 Respondent is placed on probation for three (3) years on the following terms and conditions.

8 **Severability Clause.** Each condition of probation contained herein is a separate
9 and distinct condition. If any condition of this Order, or any application thereof, is declared
10 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
11 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
12 and enforceable to the fullest extent permitted by law.

13 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full
14 and detailed account of any and all violations of law shall be reported by Respondent to the
15 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
16 compliance with this condition, Respondent shall submit completed fingerprint forms and
17 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
18 as part of the licensure application process.

19 **Criminal Court Orders:** If Respondent is under criminal court orders, including
20 probation or parole, and the order is violated, this shall be deemed a violation of these probation
21 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

22 2. **Comply with the Board's Probation Program.** Respondent shall fully comply
23 with the conditions of the Probation Program established by the Board and cooperate with
24 representatives of the Board in its monitoring and investigation of the Respondent's compliance
25 with the Board's Probation Program. Respondent shall inform the Board in writing within no
26 more than 15 days of any address change and shall at all times maintain an active, current license
27 status with the Board, including during any period of suspension.

28 Upon successful completion of probation, Respondent's license shall be fully restored.

1 3. **Report in Person.** Respondent, during the period of probation, shall appear in
2 person at interviews/meetings as directed by the Board or its designated representatives.

3 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
4 practice as a registered nurse outside of California shall not apply toward a reduction of this
5 probation time period. Respondent's probation is tolled, if and when she resides outside of
6 California. Respondent must provide written notice to the Board within 15 days of any change of
7 residency or practice outside the state, and within 30 days prior to re-establishing residency or
8 returning to practice in this state.

9 Respondent shall provide a list of all states and territories where she has ever been
10 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
11 provide information regarding the status of each license and any changes in such license status
12 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
13 new nursing license during the term of probation.

14 5. **Submit Written Reports.** Respondent, during the period of probation, shall
15 submit or cause to be submitted such written reports/declarations and verification of actions
16 under penalty of perjury, as required by the Board. These reports/declarations shall contain
17 statements relative to Respondent's compliance with all the conditions of the Board's Probation
18 Program. Respondent shall immediately execute all release of information forms as may be
19 required by the Board or its representatives.

20 Respondent shall provide a copy of this Decision to the nursing regulatory agency in
21 every state and territory in which she has a registered nurse license.

22 6. **Function as a Registered Nurse.** Respondent, during the period of probation,
23 shall engage in the practice of registered nursing in California for a minimum of 24 hours per
24 week for 6 consecutive months or as determined by the Board.

25 For purposes of compliance with the section, "engage in the practice of registered
26 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
27 work in any non-direct patient care position that requires licensure as a registered nurse.

28 The Board may require that advanced practice nurses engage in advanced practice nursing

1 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

2 If Respondent has not complied with this condition during the probationary term, and
3 Respondent has presented sufficient documentation of her good faith efforts to comply with this
4 condition, and if no other conditions have been violated, the Board, in its discretion, may grant
5 an extension of Respondent's probation period up to one year without further hearing in order to
6 comply with this condition. During the one year extension, all original conditions of probation
7 shall apply.

8 7. **Employment Approval and Reporting Requirements.** Respondent shall obtain
9 prior approval from the Board before commencing or continuing any employment, paid or
10 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
11 performance evaluations and other employment related reports as a registered nurse upon request
12 of the Board.

13 Respondent shall provide a copy of this Decision to her employer and immediate
14 supervisors prior to commencement of any nursing or other health care related employment.

15 In addition to the above, Respondent shall notify the Board in writing within seventy-two
16 (72) hours after she obtains any nursing or other health care related employment. Respondent
17 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
18 separated, regardless of cause, from any nursing, or other health care related employment with a
19 full explanation of the circumstances surrounding the termination or separation.

20 8. **Supervision.** Respondent shall obtain prior approval from the Board regarding
21 Respondent's level of supervision and/or collaboration before commencing or continuing any
22 employment as a registered nurse, or education and training that includes patient care.

23 Respondent shall practice only under the direct supervision of a registered nurse in good
24 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
25 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
26 approved.

27 Respondent's level of supervision and/or collaboration may include, but is not limited to
28 the following:

1 (a) Maximum - The individual providing supervision and/or collaboration is present in
2 the patient care area or in any other work setting at all times.

3 (b) Moderate - The individual providing supervision and/or collaboration is in the
4 patient care unit or in any other work setting at least half the hours Respondent works.

5 (c) Minimum - The individual providing supervision and/or collaboration has person-
6 to-person communication with Respondent at least twice during each shift worked.

7 (d) Home Health Care - If Respondent is approved to work in the home health care
8 setting, the individual providing supervision and/or collaboration shall have person-to-person
9 communication with Respondent as required by the Board each work day. Respondent shall
10 maintain telephone or other telecommunication contact with the individual providing supervision
11 and/or collaboration as required by the Board during each work day. The individual providing
12 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits
13 to patients' homes visited by Respondent with or without Respondent present.

14 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in
15 any private duty position as a registered nurse, a temporary nurse placement agency, a traveling
16 nurse, or for an in-house nursing pool.

17 Respondent shall not work for a licensed home health agency as a visiting nurse unless
18 the registered nursing supervision and other protections for home visits have been approved by
19 the Board. Respondent shall not work in any other registered nursing occupation where home
20 visits are required.

21 Respondent shall not work in any health care setting as a supervisor of registered nurses.
22 The Board may additionally restrict Respondent from supervising licensed vocational nurses
23 and/or unlicensed assistive personnel on a case-by-case basis.

24 Respondent shall not work as a faculty member in an approved school of nursing or as an
25 instructor in a Board approved continuing education program.

26 Respondent shall work only on a regularly assigned, identified and predetermined
27 worksite(s) and shall not work in a float capacity.

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1 If Respondent is working or intends to work in excess of 40 hours per week, the Board
2 may request documentation to determine whether there should be restrictions on the hours of
3 work.

4 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll
5 and successfully complete a course(s) relevant to the practice of registered nursing no later than
6 six months prior to the end of her probationary term.

7 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
8 Respondent shall submit to the Board the original transcripts or certificates of completion for the
9 above required course(s). The Board shall return the original documents to Respondent after
10 photocopying them for its records.

11 11. **Cost Recovery.** ~~Respondent shall~~ pay to the Board costs associated with its
12 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
13 ~~amount of \$5,185.25.~~ Respondent shall be permitted to pay these costs in a payment plan
14 approved by the Board, with payments to be completed no later than three months prior to the
15 end of the probation term.

16 If Respondent has not complied with this condition during the probationary term, and
17 Respondent has presented sufficient documentation of her good faith efforts to comply with this
18 condition, and if no other conditions have been violated, the Board, in its discretion, may grant
19 an extension of Respondent's probation period up to one year without further hearing in order to
20 comply with this condition. During the one year extension, all original conditions of probation
21 will apply.

22 12. **Violation of Probation.** If Respondent violates the conditions of her probation,
23 the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay
24 order and impose the stayed discipline (revocation/suspension) of Respondent's license.

25 If during the period of probation, an accusation or petition to revoke probation has been
26 filed against Respondent's license or the Attorney General's Office has been requested to prepare
27 an accusation or petition to revoke probation against Respondent's license, the probationary
28 period shall automatically be extended and shall not expire until the accusation or petition has

1 been acted upon by the Board.

2 13. **License Surrender.** During Respondent's term of probation, if she ceases
3 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
4 probation, Respondent may surrender her license to the Board. The Board reserves the right to
5 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
6 take any other action deemed appropriate and reasonable under the circumstances, without
7 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
8 will no longer be subject to the conditions of probation.

9 Surrender of Respondent's license shall be considered a disciplinary action and shall
10 become a part of Respondent's license history with the Board. A registered nurse whose license
11 has been surrendered may petition the Board for reinstatement no sooner than the following
12 minimum periods from the effective date of the disciplinary decision:

13 (1) Two years for reinstatement of a license that was surrendered for any reason other
14 than a mental or physical illness; or

15 (2) One year for a license surrendered for a mental or physical illness.

16 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
17 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
18 assistant, who is approved by the Board before the assessment is performed, submit an
19 assessment of the Respondent's physical condition and capability to perform the duties of a
20 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
21 medically determined, a recommended treatment program will be instituted and followed by the
22 Respondent with the physician, nurse practitioner, or physician assistant providing written
23 reports to the Board on forms provided by the Board.

24 If Respondent is determined to be unable to practice safely as a registered nurse, the
25 licensed physician, nurse practitioner, or physician assistant making this determination shall
26 immediately notify the Board and Respondent by telephone, and the Board shall request that the
27 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
28 shall immediately cease practice and shall not resume practice until notified by the Board.

1 During this period of suspension, Respondent shall not engage in any practice for which a license
2 issued by the Board is required until the Board has notified Respondent that a medical
3 determination permits Respondent to resume practice. This period of suspension will not apply
4 to the reduction of this probationary time period.

5 If Respondent fails to have the above assessment submitted to the Board within the 45-
6 day requirement, Respondent shall immediately cease practice and shall not resume practice until
7 notified by the Board. This period of suspension will not apply to the reduction of this
8 probationary time period. The Board may waive or postpone this suspension only if significant,
9 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
10 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
11 Only one such waiver or extension may be permitted.

12 **15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**
13 Respondent, at her expense, shall successfully complete during the probationary period or shall
14 have successfully completed prior to commencement of probation a Board-approved
15 treatment/rehabilitation program of at least six months duration. As required, reports shall be
16 submitted by the program on forms provided by the Board. If Respondent has not completed a
17 Board-approved treatment/rehabilitation program prior to commencement of probation,
18 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a
19 program. If a program is not successfully completed within the first nine months of probation,
20 the Board shall consider Respondent in violation of probation.

21 Based on Board recommendation, each week Respondent shall be required to attend at
22 least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
23 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
24 by the Board. If a nurse support group is not available, an additional 12-step meeting or
25 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
26 such attendance to the Board during the entire period of probation. Respondent shall continue
27 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
28 mental health examiner and/or other ongoing recovery groups.

1 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
2 completely abstain from the possession, injection or consumption by any route of all controlled
3 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
4 are ordered by a health care professional legally authorized to do so as part of documented
5 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
6 days, by the prescribing health professional, a report identifying the medication, dosage, the date
7 the medication was prescribed, the Respondent's prognosis, the date the medication will no
8 longer be required, and the effect on the recovery plan, if appropriate.

9 Respondent shall identify for the Board a single physician, nurse practitioner or physician
10 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
11 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
12 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
13 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
14 considered addictive have been prescribed, the report shall identify a program for the time
15 limited use of any such substances.

16 The Board may require the single coordinating physician, nurse practitioner, or physician
17 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
18 medicine.

19 **17. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
20 random, biological fluid testing or a drug screening program which the Board approves. The
21 length of time and frequency will be subject to approval by the Board. Respondent is responsible
22 for keeping the Board informed of Respondent's current telephone number at all times.
23 Respondent shall also ensure that messages may be left at the telephone number when she is not
24 available and ensure that reports are submitted directly by the testing agency to the Board, as
25 directed. Any confirmed positive finding shall be reported immediately to the Board by the
26 program and Respondent shall be considered in violation of probation.

27 In addition, Respondent, at any time during the period of probation, shall fully cooperate
28 with the Board or any of its representatives, and shall, when requested, submit to such tests and

1 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
2 hypnotics, dangerous drugs, or other controlled substances.

3 If Respondent has a positive drug screen for any substance not legally authorized and not
4 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
5 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
6 practice pending the final decision on the petition to revoke probation or the accusation. This
7 period of suspension will not apply to the reduction of this probationary time period.

8 If Respondent fails to participate in a random, biological fluid testing or drug screening
9 program within the specified time frame, Respondent shall immediately cease practice and shall
10 not resume practice until notified by the Board. After taking into account documented evidence
11 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
12 suspend Respondent from practice pending the final decision on the petition to revoke probation
13 or the accusation. This period of suspension will not apply to the reduction of this probationary
14 time period.

15 18. **Mental Health Examination.** Respondent shall, within 45 days of the effective
16 date of this Decision, have a mental health examination including psychological testing as
17 appropriate to determine her capability to perform the duties of a registered nurse. The
18 examination will be performed by a psychiatrist, psychologist or other licensed mental health
19 practitioner approved by the Board. The examining mental health practitioner will submit a
20 written report of that assessment and recommendations to the Board. All costs are the
21 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
22 result of the mental health examination will be instituted and followed by Respondent.

23 If Respondent is determined to be unable to practice safely as a registered nurse, the
24 licensed mental health care practitioner making this determination shall immediately notify the
25 Board and Respondent by telephone, and the Board shall request that the Attorney General's
26 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
27 practice and may not resume practice until notified by the Board. During this period of
28 suspension, Respondent shall not engage in any practice for which a license issued by the Board

1 is required, until the Board has notified Respondent that a mental health determination permits
2 Respondent to resume practice. This period of suspension will not apply to the reduction of this
3 probationary time period.


4 If Respondent fails to have the above assessment submitted to the Board within the 45-
5 day requirement, Respondent shall immediately cease practice and shall not resume practice until
6 notified by the Board. This period of suspension will not apply to the reduction of this
7 probationary time period. The Board may waive or postpone this suspension only if significant,
8 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
9 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
10 Only one such waiver or extension may be permitted.

11 19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate
12 in an on-going counseling program until such time as the Board releases her from this
13 requirement and only upon the recommendation of the counselor. Written progress reports from
14 the counselor will be required at various intervals.

15 **ACCEPTANCE**

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
17 fully discussed it with my attorney, Ron G. Skipper. I understand the stipulation and the effect it
18 will have on my Registered Nurse License. I enter into this Stipulated Settlement and
19 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
20 Decision and Order of the Board of Registered Nursing.

21 DATED: Sept. 18, 2007.

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23 
24 SHELLY LEE HUMPHREYS BAXTER
Respondent

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1 I have read and fully discussed with Respondent Shelly Lee Humphreys Baxter the terms
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. I approve its form and content.

4 DATED: 9-18-2007

5
6 
7 RON G. SKIPPER
Attorney for Respondent

8
9 **ENDORSEMENT**

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
12 Affairs.

13 DATED: 9/25/07

14 EDMUND G. BROWN JR., Attorney General
15 of the State of California

16 LINDA SCHNEIDER
17 Supervising Deputy Attorney General

18 
19 SUSAN FITZGERALD
20 Deputy Attorney General

21 Attorneys for Complainant
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Exhibit A
Accusation No. 2007-217

1 BILL LOCKYER, Attorney General
of the State of California
2 MARGARET A. LAFKO
Supervising Deputy Attorney General
3 SUSAN FITZGERALD, State Bar No. 112278
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101

6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2066
Facsimile: (619) 645-2061

8 Attorneys for Complainant
9

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2007 - 217

14 SHELLY LEE HUMPHREYS BAXTER
aka SHELLY LEE BAXTER
15 P.O. Box 5036
Hemet, CA 92544

A C C U S A T I O N

16 Registered Nurse License No. 482328

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about August 31, 1992, the Board of Registered Nursing issued Registered
25 Nurse License Number 482328 to Shelly Lee Humphreys Baxter, aka Shelly Lee Baxter
26 (Respondent). The Registered Nurse license is currently inactive and will expire on February 29,
27 2008, unless renewed.
28

1 JURISDICTION

2 3. This Accusation is brought before the Board of Registered Nursing (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 A. Section 2750 of the Business and Professions Code ("Code") provides, in
6 pertinent part, that the Board may discipline any licensee, including a licensee holding a
7 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
8 2750) of the Nursing Practice Act.

9 B. Section 2761 of the Code states in pertinent part:

10 "The board may take disciplinary action against a certified or licensed nurse or deny an
11 application for a certificate or license for any of the following:

12 "....

13 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
14 functions, and duties of a registered nurse, in which event the record of the conviction shall be
15 conclusive evidence thereof.

16 "...."

17 C. Section 125.3 of the Code provides, in pertinent part, that the Board may request
18 the administrative law judge to direct a licentiate found to have committed a violation or
19 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
20 and enforcement of the case.

21 CAUSE FOR DISCIPLINE

22 (September 5, 2006 Conviction of a Substantially Related Crime
23 Incident Date: March 19, 2004)

24 4. Respondent is subject to disciplinary action under section 2761(f) for conviction
25 of a crime substantially related to the qualifications, functions, and duties of her nursing license.
26 The circumstances are as follows:

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1 A. On or about September 5, 2006 in Riverside County Superior Court Case no.
2 007309, *People v. David Virgil Baxter and Shelly Baxter*, Respondent was convicted of wilfully,
3 unlawfully and knowingly making a place under her custody and control available for use in the
4 unlawful manufacture, storage and distribution of a controlled substance for sale and distribution,
5 to wit, methamphetamine.

6 B. Among other things, Respondent was sentenced to the following: three years
7 formal probation, two years in prison, suspended; 161 days of consecutive weekend custody
8 starting October 9, 2006, ordered not to possess any controlled substances; to submit to drug
9 testing; and to pay various fines and fees.

C. The facts and circumstances surrounding Respondent's conviction include that during the execution of a search warrant by members of the Allied Riverside Cities Narcotic Enforcement Team (ARCNET) on March 19, 2004 at the address of Respondent and her husband, 42021 Bancroft Way, Hemet, California, the following items, among other things, were found: one 12-gauge pump shotgun, a 22-caliber rifle, a Smith and Wesson 38-caliber revolver, a Harrington and Richardson Arms 38-caliber revolver, several boxes of ammunition, numerous pseudoephedrine tablets, several gram scales, two sealed boxes of Honey Nut Cheerios containing \$7,000 and \$7,500 in US Currency, respectively, and numerous plastic buckets with a green leafy substance in each consistent with marijuana.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein
21 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 482328, issued to
23 Shelly Lee Humphreys Baxter, aka Shelly Lee Baxter;

24 2. Ordering Shelly Lee Humphreys Baxter to pay the Board of Registered Nursing
25 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
26 Professions Code section 125.3;


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1 3. Taking such other and further action as deemed necessary and proper.

2 DATED: 2/20/07

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RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant